

December 18, 2017

Dimitrios Viennas
Diana Viennas
5605 Kallan Court
Baltimore, MD 21227

Re: Forest Ridge Subdivision (Viennas Property)
5605 Kallan Court
Forest Conservation Variance
Tracking #01-17-2607

Dear Mr. and Mrs. Viennas:

A request for a variance from the Baltimore County Code Article 33 Environmental Protection and Sustainability, Title 6 Forest Conservation was received and processed by this Department. This request proposes to impact 77 square-feet of Forest Conservation Easement (FCE), so the property owners may install a shed partially in the easement in their rear yard.

The Director of the Department of Environmental Protection and Sustainability (DEPS) may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioners show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioners of all beneficial use of their property. The lot associated with the variance is part of the Forest Ridge Subdivision. The rear yard of the lot is approximately 65 feet in length and includes a 37-foot long FCE. With the FCE, the property owners have approximately 28 feet of back yard available for use. However, the lot has been developed with a house and minimal yard. Therefore, denying the variance would not deprive the petitioners of all beneficial use of their property, thus this criterion has not been met.

The second criterion (Subsection 33-6-116 (d) (2) of the Code) requires that the petitioners show that their plight is due to unique circumstances and not the general

conditions of the neighborhood. The lots in the Forest Ridge Subdivision were established in 1995. The Viennas Property is located at the break in the cul-de-sac, resulting in the home's foundation being closer to the FCE than other homes in the neighborhood. Additionally, the dwelling on the Viennas Property is one of the smallest in the neighborhood. Therefore, the petitioners' plight is due to unique circumstances associated with the size and configuration of the lot in relation to the FCE rather than general conditions of the neighborhood. As a result, this criterion is met.

The third criterion (Subsection 33-6-116(d) (3) of the Code) requires that the petitioners show that the special variance requested will not alter the essential character of the neighborhood. The proposed variance will allow the property owners to build a 12x16-foot shed for storage and yard maintenance similar to the other lots in the neighborhood. Therefore, the proposed impact to the FCE will not alter the essential character of the neighborhood, and this criterion has been met.

The fourth criterion (Subsection 33-6-116(e) (1) of the Code) requires that the granting of the special variance will not adversely affect water quality. While the proposed variance will allow the property owners to install a shed in their rear yard, any existing trees in the FCE shall remain. Furthermore, any existing trees that become hazard trees in the future will be required to be replaced. Trees provide important water quality benefits by reducing storm water runoff and sedimentation and absorbing pollutants. Since the proposed variance will require all existing trees to remain, the proposed variance will not adversely affect water quality. As a result, the proposed variance will not adversely affect water quality, so this criterion has been met.

The fifth criterion (Subsection 33-6-116(e) (2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioners. The FCE on this property was created in 1995 as part of the Forest Ridge Subdivision and the subdivision's compliance with the Forest Conservation Law. Mr. and Mrs. Viennas purchased the property in May 1996. Since the FCE was created prior to purchase of the lot by the property owners, the variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioners. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of DEPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. As discussed above, the proposed variance will allow the property owners to install a shed in their rear yard in the FCE. The existing FCE provides minimal forest function due to its small size, and the proposed shed will only impact a small percentage of this FCE. If granted, the variance will prohibit the removal of existing trees except for those posing a hazard. Additionally, the property owners have communicated their intention to continue planting additional native trees and shrubs in the FCE. Furthermore, no additional structures will be allowed

in the FCE that could impact the existing trees. By maintaining the number of existing trees on the property and eliminating the potential impact of additional structures in the FCE, we find that the proposed variance is consistent with the spirit and intent of Article 33 of the Baltimore County Code, and this criterion is met.

Based on our review, this Department finds that the required variance criteria have been met. Therefore, the requested variance is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code contingent upon the following:

1. All existing trees on the property must remain. If an existing tree becomes a hazard, you shall first contact DEPS for approval to remove it. Any tree approved for removal shall be replaced with a 1-inch caliper Maryland native deciduous tree.
2. No additional structures are permitted in the FCE other than the approved shed.

It is the intent of this Department to approve this variance. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the property owners and applicants sign the statement on the following page and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please call Ms. Libby Errickson at (410) 887-3980.

Sincerely yours,

David V. Lykens
Deputy Director

DVL/lbe

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I/we agree to the above conditions to bring my/our property into compliance with
Baltimore County's Forest Conservation Law.

Property Owner's Signature

Date

Printed Name